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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report on best practices and lessons learned on how protecting and promoting human rights contribute to preventing and countering violent extremism

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 30/15. It highlights domestic law and policy developments in the area of preventing and countering violent extremism, with particular focus on the critical role the promotion and protection of human rights plays in this regard.

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Contents

		Page
I.	Introduction	3
II.	Human rights law and the factors and conditions contributing to the emergence of violent extremism	4
III.	Domestic law and policy developments in the area of preventing and countering violent extremism	7
IV.	Best practices and lessons learned on human rights-compliant programming to prevent and counter violent extremism	10
	A. Community engagement and empowerment	11
	B. Youth engagement	14
	C. Preventing and countering violent extremism online	15
V.	Conclusions and recommendations	18

I. Introduction

1. In its resolution 30/15, the Human Rights Council expressed deep concern at the profound threat posed by acts resulting from violent extremism to the realization and enjoyment of human rights and by the increasing and serious human rights abuses and violations of international humanitarian law by violent extremist and terrorist groups. In this context, the Council referred to acts involving unlawful killings, the deliberate targeting of civilians, the unlawful recruitment and use of child soldiers, sexual violence and other forms of violence, forced conversions, targeted persecution of individuals on the basis of their religion or belief, forced displacement and abduction, abuse of women and children, acts of violence against members of ethnic and religious minorities, and unlawful sieges involving civilians, especially minorities.[1] The General Assembly and the Security Council also have stressed the international nature of the question, with the Security Council drawing a link between violent extremism and terrorism, and warning that the former may be conducive to the latter.[2]

2. Violent extremism as a phenomenon is difficult to fully grasp. While research is ongoing to arrive at an understanding of what turns individuals, especially young men, to extreme ideology, resulting in violent acts on a massive scale, States have been adopting measures to prevent and counter violent extremism. Recognizing the need for States and communities to act to prevent violent extremism, in January 2016 the Secretary-General launched the Plan of Action to Prevent Violent Extremism, which emphasizes the need for a comprehensive approach to countering terrorism and violent extremism that goes beyond "law enforcement, military or security measures to address development, good governance, human rights and humanitarian concerns".[3] That approach includes addressing conditions conducive to violent extremism and terrorism and the human rights and gender dimensions of that issue, and gives new impetus to action under pillars I and IV of the Global Counter-Terrorism Strategy. The Secretary-General has stressed that ensuring security and respect for human rights are not competing but rather complementary goals, and that human rights play a key role in ensuring that efforts to prevent and counter violent extremism are effective and sustainable. In other words, all legislation, policies and programmes to prevent and counter violent extremism must be designed and implemented in a manner that complies with human rights to avoid the vicious circle whereby measures taken would risk feeding the very phenomenon they are aimed at preventing.

3. In its resolution 30/15, the Human Rights Council requested the United Nations High Commissioner for Human Rights to submit to it, at its thirty-third session, a compilation report on best practices and lessons learned on how protecting and promoting human rights contribute to preventing and countering violent extremism.

4. In compiling the present report and as encouraged by the Council in resolution 30/15, the Office of the United Nations High Commissioner for Human Rights (OHCHR) sought inputs from Member States through their Permanent Missions in Geneva and New York, international and regional organizations, national human rights institutions, and non-governmental organizations through a note verbale sent on 18 January 2016. Contributions were received from 28 Member States in all regions, three international and/or regional

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[1] Human Rights Council resolution 30/15.

[2] General Assembly resolutions 68/127 and 70/109, and Security Council resolutions 2178 (2014), 2242 (2015) and 2250 (2015).

[3] See A/70/674, para. 41.

organizations and 23 non-governmental organizations. A dedicated web page[4] was created in order to make available all contributions for public consultation and to provide further opportunity for input.

II. Human rights law and the factors and conditions contributing to the emergence of violent extremism

5. As stressed by the Human Rights Council in its resolution 30/15, human rights and fundamental freedoms, including the freedoms of peaceful assembly and of association, are essential components of democracy, providing individuals with invaluable opportunities to express their political opinions and enabling dialogue related to preventing and countering violent extremism.

6. In the context of prevention, the question of tackling extremist ideology needs to be examined through the lens of article 18 of both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The two provisions are similar and affirm the right to freedom of thought, conscience and religion. Article 18 of the Covenant unconditionally protects the freedom to have or to adopt a religion or belief of one's choice.[5] The manifestation of religion or belief can be subject to limitations, but only if they are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

7. Article 19 of both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, on freedom of opinion and expression, are also relevant. As highlighted by the Human Rights Committee, freedom of expression is an indispensable condition for the full development of the person and constitutes the foundation stone for every free and democratic society. The Covenant does not permit any exceptions to or restrictions on the right to hold an opinion.[6] However, article 19 (3) regulates the expression of these views and allows for restrictions that are provided by law and to the extent necessary for the protection of national security, public order (*ordre public*), or of public health or morals, or for respect of the rights or reputation of others.

8. With regard to hate speech, article 20 of the Covenant requires that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. With a view to enhancing the understanding of the relationship between freedom of expression and incitement to hatred, OHCHR initiated a series of regional expert workshops which resulted in the adoption in 2012 of the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.[7] The Rabat Plan of Action provides useful guidance through a six-part threshold test (considering the context, speaker, intent, content/form, extent and likelihood) in order to establish whether expressions should be considered as criminal offences.

9. Policies to counter violent extremism must be consistent with international law, including human rights law and international humanitarian law. Especially relevant in this context are the protections provided under international human rights law regarding the right to life, in particular concerning operations that involve the use of force. With regard to the criminal law response, prohibiting arbitrary detention and torture, cruel, inhuman or

[4] www.ohchr.org/EN/Issues/RuleOfLaw/Pages/PCVE.aspx.

[5] See Human Rights Committee, general comment No. 22 (1993), paras. 2-3.

[6] See Human Rights Committee, general comment No. 34 (2011), para. 9.

[7] See A/HRC/22/17/Add.4, annex, appendix.

degrading treatment or punishment, as well as ensuring the right to a fair trial, are of particular importance. The clarity of legal provisions and the principle of legality are also essential, in accordance with article 15 of the Covenant. In addition, prohibiting arbitrary deprivation of nationality, as well as ensuring the right to privacy, particularly online, are also relevant.

10. With regard to derogations, it may be instructive to recall article 4 of the Covenant, which provides for the possibility for States to temporarily adjust certain obligations under the Covenant in a time of "public emergency which threatens the life of the nation", provided that a number of conditions are met, notably that measures are limited to the extent strictly required by the exigencies of the situation. Any measures thus taken need to be in genuine response to the situation and be fully justified by the circumstances. Therefore, the mere fact that derogating from a specific provision may, of itself, be justified by the exigencies of the situation does not obviate the requirement to demonstrate the necessity of the concrete measures taken pursuant to the derogation.[8] States also have to ensure that adequate safeguards are set up to protect against arbitrary and disproportionate interference with human rights, given that the protection of the individual against arbitrariness is inherent in the principle of legality and the rule of law, which remain binding regardless of circumstances. Above all, certain rights cannot be derogated from under any circumstances, including those relating to the arbitrary deprivation of life, the prohibition of torture or cruel, inhuman or degrading treatment or punishment, and freedom of thought, conscience and religion.[9]

11. In any case, even when limitations on certain human rights are permissible, a number of conditions must be met. First, such restrictions must be prescribed by law and comply with the principle of legality, which continues to apply even during a state of emergency. In this respect, legislation and policies to prevent or counter violent extremism should clearly define the phenomenon they are targeting and the ambit of related programmes. Laws and policies must be formulated with sufficient clarity and precision to guide the actions of those implementing them and enable members of the public to regulate their conduct accordingly. A law conferring discretion upon State officials in applying its provisions should delineate clearly the scope of such discretion and describe in detail the circumstances in which interference with human rights is permitted. It should also foresee independent oversight mechanisms, to which a concerned individual can lodge complaints.

12. While the above provisions provide important guidance on assessing conduct, there are serious challenges in their application. To start with, terrorist and violent extremist groups[10] tend to operate in a secretive and decentralized manner, which makes their detection difficult. States have therefore tried to capture very early manifestations of radicalization, with some of these measures seriously infringing on the enjoyment of human rights.[11] Some researchers have been trying to establish some "indicators of

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[8] See Human Rights Committee, general comment No. 29 (2001), para. 4.

[9] See article 4 (2) of the International Covenant on Civil and Political Rights, which provides that "no derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision".

[10] Nicholas Pace, "Decentralization: the future of ISIS", *Small Wars Journal* (November 2014); Thomas Mockaitis, *The "New" Terrorism: Myths and Reality* (Stanford, California, Stanford University Press, 2008), p. 120; Nathan Hamilton and David Gray, "Decentralized terrorism: ramifications for a centralized international system", *Global Security Studies*, vol. 3, Issue 2 (spring 2012).

[11] Harriet Allan and others, "Drivers of violent extremism: hypotheses and literature review" (Royal United Services Institute, 16 October 2015).

radicalization"[12] in an attempt to identify individuals on the path to adopting, or already having adopted, "extremist" views. This approach by itself entails the danger that some States may adopt a sequencing approach which places the maintenance of security ahead of the protection of human rights. This risks infringing absolute rights and impeding the ability to impartially and objectively assess the level of required limitations on other rights. Capturing all trajectories towards possible terrorism and violent extremism at the earliest possible stage may require casting the security net so wide that human rights protections are rendered ineffective.

13. States have repeatedly affirmed their commitment to take "measures aimed at addressing the conditions conducive to the spread of terrorism, including but not limited to prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of the rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socioeconomic marginalization and lack of good governance, while recognizing that none of these conditions can excuse or justify acts of terrorism".[13] What is needed is a sophisticated understanding of how violent extremist movements develop, and what pushes individuals to join them. This often requires the careful consideration of a combination of individual, situational, economic, social and cultural factors and their interplay, beyond simple security measures.[14] Moreover, as emphasized by the Security Council and the Secretary-General, there is a need for gender-sensitive research and data collection on the drivers of radicalization for women and on their role in violent extremism.[15]

14. While hard to understand, violent extremism clearly does not evolve in a vacuum. As such, it cannot be predicted by one variable alone.[16] The Secretary-General stresses that the phenomenon "tends to thrive in an environment characterized by poor governance, democracy deficits, corruption and a culture of impunity". He adds that violent extremist narratives become attractive where "human rights are being violated, good governance is being ignored and aspirations are being crushed".[17]

15. With empirical research being thus far scarce, a holistic approach to the factors and conditions contributing to the emergence of violent extremism is needed. The Special Rapporteur on the promotion and protection of human rights while countering terrorism also stressed that "the path to radicalization is individualized and non-linear, with a number of common 'push' and 'pull' factors, but no single determining feature".[18] Furthermore, the

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[12] See M. Sageman, "The stagnation in terrorism research", *Terrorism and Political Violence*, vol. 26, Issue 4 (2014), pp. 568-569.

[13] General Assembly resolutions 60/288, 68/276 and 70/291.

[14] In this sense, see Arun Kundnani, "A decade lost: rethinking radicalisation and extremism" (Claystone, January 2015); ARTIS Research and Risk Modeling, "Theoretical Frames on pathways to violent radicalization" (August 2009), available from www.artisresearch.com/articles/ARTIS_Theoretical_Frames_August_2009.pdf; Martha Crenshaw, "The causes of terrorism", *Comparative Politics*, vol. 13, No. 4 (July 1981), pp. 379-399; Alex Schmid, "Radicalisation, de-radicalisation, counter-radicalisation: a conceptual discussion and literature review" (The Hague, International Centre for Counter-Terrorism, 2013); and Rik Coolsaet, "All radicalisation is local: the genesis and drawbacks of an elusive concept" (Egmont – Royal Institute for International Relations, June 2016), available from http://egmontinstitute.be/wp-content/uploads/2016/05/ep84.pdf.

[15] Security Council resolution 2242 (2015); and A/70/674, para. 53.

[16] ARTIS Research and Risk Modeling, "Theoretical frames on pathways to violent radicalization".

[17] See A/70/674, para. 3.

[18] See A/HRC/31/65, para. 15.

Special Rapporteur has joined others[19] in warning against overemphasizing religious ideology as the driver of terrorism and violent extremism at the expense of considering other potential political, social or economic factors.[20]

III. Domestic law and policy developments in the area of preventing and countering violent extremism

16. As documented in contributions received for the present report, recent events in the international and domestic arena, including the need to stem the flow of foreign fighters and acts of home-grown terrorism and violent extremism, or fear of such acts, have led many States to adopt legislation and policies aimed at dealing with the challenge of violent extremism.

17. Laws, policies and measures adopted refer to "violent extremism" and related notions, such as "extremism" and "radicalization". Violent extremism has been described as the "use or support of violence",[21] the "willingness" to use violence,[22] committing, advocating or encouraging acts of violence;[23] and "promoting views which foment and incite violence in furtherance of particular beliefs, and foster hatred which might lead to inter-community violence".[24] Violent extremism is generally conceived as being aimed at achieving political, ideological or religious goals,[25] or as the means employed by groups that reject democracy, human rights and the rule of law.[26] Some definitions explicitly note that radical views are by no means a problem in themselves, but that they become a threat to national security when such views are put into violent action.[27] In other cases, definitions employed do not make fully clear whether "violent extremism" presupposes violent action or inciting violent action, or whether lesser forms of conduct that do not normally trigger criminal law sanctions would also be included.

18. Some domestic laws and policies address the phenomenon of "extremism" without qualifying it as "violent". They define "extremism" as "vocal or active opposition" to the values of the respective country or society, including "democracy, the rule of law,

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[19] See www.e-ir.info/2014/11/20/interview-marc-sageman; Kundnani, "A decade lost", pp. 10-11 and 22-25; "Scott Atran on youth, violent extremism and promoting peace", available from http://blogs.plos.org; and Matthew Weaver, "Cameron's anti-terror strategy is 'barking up wrong tree', says expert", *The Guardian* (20 July 2015). See also A/HRC/28/66, paras. 19 and 22-38.

[20] See Mark Sedgwick, "The concept of radicalization as a source of confusion" in *Terrorism and Political Violence*, vol. 22, No. 4 (2010), pp. 480-481.

[21] Government of Australia, Attorney-General's Department, "Countering Violent Extremism", available from https://www.ag.gov.au/NationalSecurity/Counteringviolentextremism/Pages/default.aspx.

[22] Norwegian Ministry of Justice and Public Security, Action Plan against Radicalization and Violent Extremism, available from https://www.counterextremism.org/resources/details/id/679/action-plan-against-radicalisation-and-violent-extremism.

[23] Swiss Federal Council, Ordonnance sur le Service de renseignement de la Confédération.

[24] Organization for Economic Cooperation and Development, Development Assistance Committee high-level meeting, communique of 19 February 2016.

[25] Norwegian Ministry of Justice and Public Security, Action Plan against Radicalization and Violent Extremism. See also Government offices of Sweden, Action Plan to Safeguard Democracy against Violence-Promoting Extremism.

[26] Swiss Federal Council, Ordonnance sur le Service de renseignements de la Confédération.

[27] Government of Canada, "Violent extremism", available from https://www.publicsafety.gc.ca/cnt/ntnl-scrt/cntr-trrrsm/cntrng-vlnt-xtrmsm/vlnt-xtrmnsm-eng.aspx.

individual liberty and mutual respect and tolerance of different faiths and beliefs".[28] Some definitions of "extremism" refer to notions or aims which are racist, anarchist, nationalist, authoritarian or totalitarian regardless of their political, ideological, religious or philosophic character, and which are contrary, in theory or in practice, to principles of democracy or human rights, to the good functioning of the democratic institutions of the State or to other basic principles of the rule of law.[29] Some laws and policies go further and describe extremism as encompassing non-violent conduct, including conduct deemed to insult national pride or breach national dignity,[30] or knowingly disseminating false accusations against federal or regional officials, such as allegations that they have committed illegal or criminal acts in their official capacity.[31] If they are not limited to "violent" extremism, such measures risk targeting the holding of an opinion or belief rather than actual conduct.

19. Another term that is often used is "radicalization", with a number of States adopting some policy responses to this phenomenon. The notion of "radicalization" is generally used to convey the idea of a process through which an individual adopts an increasingly extremist set of beliefs and aspirations. This may include, but is not defined by, the willingness to condone, support, facilitate or use violence to further political, ideological, religious or other goals.[32] States and other stakeholders use various definitions for radicalization, frequently limiting the focus to "violent" radicalization[33] or radicalization leading to terrorism.[34] The European Police Office (Europol) has recently recommended referring to a "violent extremist social trend" rather than using the term "radicalization".[35] However, such vague concepts risk infringing human rights, including article 15 of the International Covenant on Civil and Political Rights. The Secretary-General, in his Plan of Action to Prevent Violent Extremism, left the definition of violent extremism to the domestic level but cautioned that such definitions must be consistent with States' obligations under international law, in particular international human rights law.[36]

20. Moreover, a legal or policy framework that fails to clearly define the phenomenon it seeks to address not only risks leading to inefficient measures, but may also become harmful. Vague concepts such as "violent extremism", "extremism" or "radicalization" are

[28] United Kingdom, "A stronger Britain, built on our values", speech of the Home Secretary (23 March 2015), available from https://www.gov.uk/government/speeches/a-stronger-britain-built-on-our-values.

[29] Government of Belgium, Direction générale sécurité et prévention, "Définitions: radicalisation violente", available from https://www.besafe.be/fr/base-de-connaissance/d-finitions-radicalisation-violente.

[30] Article 19, "Kyrgyzstan: Law on Countering Extremist Activity" (London, December 2015), available from at https://www.article19.org/data/files/medialibrary/38221/Kyrgyzstan-Extremism-LA-Final.pdf; and Tajikistan, Law No. 69/2003 on the Fight Against Extremism, art. 3.

[31] See Russian Federation, Federal Law No. 114-FZ on Countering Extremist Activity (2002), art. 1.

[32] Government of Denmark, "A common and safe future: an action plan to prevent extremist views and radicalisation among young people" (2009); and Council of Europe, Guidelines for Prison and Probation Services Regarding Radicalisation and Violent Extremism (2016).

[33] Government of Canada, "Violent extremism"; and European Commission's Expert Group on Violent Radicalisation, "Radicalisation processes leading to acts of terrorism" (2008).

[34] Organization for Security and Cooperation in Europe, *Preventing Terrorism and Countering Violent Extremism and Radicalization that Lead to Terrorism: A Community-Policing Approach* (February 2014).

[35] European Police Office, "Changes in modus operandi of Islamic State terrorist attacks" (January 2016), available from https://www.europol.europa.eu/content/changes-modus-operandi-islamic-state-terrorist-attacks.

[36] See A/70/674, para. 5.

open to interpretation and may easily be abused.[37] In particular, they risk encompassing manifestations or acts that are lawful under international human rights law.

21. In some jurisdictions, counter-extremism legislation has reportedly been used to unduly restrict human rights, such as freedom of expression, peaceful assembly and religion or the right to privacy.[38] The Special Rapporteur on freedom of religion or belief has repeatedly expressed concern that overly broad or vague definitions of extremism may be applied arbitrarily and misused to control religious communities or even criminalize legitimate manifestations of religion or belief.[39] Similarly, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has expressed concern that Governments have used vague and broad definitions of "terrorism" to punish those who do not conform to traditional gender roles and to suppress social movements that seek gender equality in the protection of human rights.[40]

22. The interchangeable use of the terms "violent extremism" and "terrorism", as well as the lack of a clear delineation of the boundaries between them, may also be problematic.[41] The Secretary-General's Plan of Action to Prevent Violent Extremism notes that "violent extremism encompasses a wider category of manifestations" than terrorism but warns against the risk of conflating the two terms. Indeed, without clear definitions, initiatives aimed at preventing or countering violent extremism may be, and at times have been, used to justify an overly broad application of counter-terrorism measures to target acts that would not meet the criteria for acts of terrorism or terrorism-related conduct.[42]

23. Although preventing and countering violent extremism is frequently described as the use of non-coercive means to dissuade individuals from resorting to violence in the furtherance of political, social or ideological goals,[43] a number of measures adopted in that regard at the national level risk interfering with human rights. Under the umbrella of preventing and countering violent extremism, States have, among other things, placed individuals under surveillance, removed or blocked online content, restricted freedom of movement and liberty of persons, banned access to education, and temporarily removed minors from their families. Oftentimes, no assessment has taken place on the gendered impact of such measures, including those which seem gender neutral but result in discriminatory treatment because of the underlying gender dynamics.

24. Measures to prevent and counter violent extremism are legal only if they are fully in conformity with international law, in particular international human rights law. Therefore, while security and intelligence services should be provided with adequate tools to enable them to protect societies from violence, it is particularly important to ensure that there are

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[37] A/HRC/28/28 and A/HRC/31/65.

[38] See, for example, the joint allegation letters and urgent appeals sent by special procedure mandate holders in A/HRC/31/79, p. 57 (RUS 3/2015), A/HRC/29/50, p. 52 (MDA 1/2015), and A/HRC/25/74, p. 50 (UZB 2/2013).

[39] See A/HRC/28/66/Add.1, para. 49; A/HRC/22/51, para. 53; A/HRC/16/53/Add.1, para. 100; and E/CN.4/2005/61/Add.1, para. 152.

[40] See A/64/211 and Corr.1, para. 27.

[41] Minerva Nasser-Eddine and others, "Countering violent extremism (CVE) literature review" (Department of Defence of Australia, Counter Terrorism and Security Technology Centre, Defence Science and Technology Organisation, March 2011).

[42] See A/70/674, para. 4.

[43] Humera Khan, "Why countering extremism fails", *Foreign Affairs* (18 February 2015), and Bryan Price, "A view from the CT foxhole: an interview with Tom Wheelock" (Combating Terrorism Center, 30 April 2015), available from https://www.ctc.usma.edu/posts/a-view-from-the-ct-foxhole-an-interview-with-tom-wheelock.

independent and effective judicial and parliamentary checks guaranteeing the protection of human rights while preventing and countering violent extremism.

IV. Best practices and lessons learned on human rights-compliant programming to prevent and counter violent extremism

25. During the Human Rights Council panel discussion on 17 March 2016 (see A/HRC/33/28), the Deputy United Nations High Commissioner for Human Rights stressed that responses to violent extremism that respect and protect human rights are more effective and sustainable.[44] Drawing on the diverse range of contributions received, the present section of the report is aimed at capturing best practices and lessons learned to ensure that programming to counter and prevent violent extremism complies with human rights standards.

26. "Direct prevention" is aimed at eliminating risk factors and establishing a legal, administrative and policy framework designed to prevent human rights violations, while "indirect prevention" is aimed at preventing recurrence of violations by identifying and addressing their causes.[45] For a response to be effective, it must take into account the specific context it is aimed at addressing. States have long been implementing programmes aimed at combating social exclusion or marginalization, enhancing access to economic, social and cultural rights, furthering gender equality, and ensuring the real and equal participation of all in political and public life to help individuals feel properly represented by their institutions. In other situations, the perception of corrupt and poor governance produces anger and disillusion. A culture of impunity and lack of accountability contributes to moving individuals and societies towards violence. Some States have been investing in strengthening rule-of-law institutions to reduce anger and grievances. These activities are indispensable to build inclusive and cohesive societies, and help to create understanding and mutual respect between different communities. While such activities can certainly contribute to preventing the emergence of violent extremism, human rights obligations exist independently. The duty to protect, promote and fulfil human rights ought to continue to be an objective in its own right, rather than become a tool subordinated to the agenda related to preventing and countering violent extremism.[46] Furthermore, social, education and other policies or programmes will be less effective and civil society space may shrink if they are approached through a security mindset.[47]

27. Continual monitoring of the human rights impact of measures to prevent and counter violent extremism, in particular on women, children, and ethnic and religious communities, and meaningful and independent oversight, are crucial to safeguarding human rights. This

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[44] Contribution of Kate Gilmore, Deputy United Nations High Commissioner for Human Rights, to the panel discussion on the human rights dimensions of preventing and countering violent extremism, held on 17 March 2016, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17245&LangID=E.

[45] See A/HRC/30/20, paras. 9-10.

[46] See A/HRC/31/65, and Naz Modirzadeh, "If it's broke, don't make it worse: a critique of the U.N. Secretary-General's plan of action to prevent violent extremism", *Lawfare Blog* (23 January 2016), available from www.lawfareblog.com.

[47] Input from the American Civil Liberties Union and Brennan Center for Justice; Article 19, statement on proposed amendments to the Russia Federation extremism law (July 2006); and Jayne Huckerby, "The complexities of women, peace, security and countering violent extremism" in *Just Security*, 24 September 2015.

is particularly important considering that there seems to be insufficient information available with respect to the effectiveness, and the gender and human rights impact, of some newly set up policies.[48] Furthermore, the evaluation of policies, programmes and activities contributes to ensuring that lessons are learned, programmes can be duly adjusted and good practices distilled. Making the results of such evaluations public also fosters trust and ensures transparency.

28. Recurring components of best practices and lessons learned on human rights-compliant programming aimed at preventing and countering violent extremism relate to community engagement and empowerment, youth engagement and online measures to prevent and counter violent extremism.

A. Community engagement and empowerment

29. Establishing a trust-based relationship between communities and authorities, including security forces, as well as social and educational services, helps build resilience and prevent violence. Initiatives related to preventing and countering violent extremism tend to be more successful when there is a pre-existing relationship with the community. In cases in which the State authorities have not previously engaged with a community, or if engagement happened largely through security forces, such programmes that are carried out by the authorities, or that visibly involve them, may cause further tensions. Routinely investing in community engagement helps to deflect such risks and provides broad benefits that go beyond preventing and countering violent extremism. However, community engagement will not counteract those factors favouring violent extremism that are external to the community. The authorities therefore also need to address such external factors.

30. In order to be effective and take into account contextual and individual triggers of violent extremism, programming aimed at preventing and countering violent extremism should be based on needs assessments that are gender sensitive and that meaningfully involve relevant stakeholders and affected groups, including civil society, as well as community and religious leaders. However, if engagement mainly focuses on male community and religious leaders, there is a risk of leaving out women. Thus the comprehensive engagement of women at all levels is crucial in this context. Such an approach also facilitates local ownership by the groups or communities that the programme is intended to benefit.

31. Due care should be taken when devising and implementing such programmes to ensure that they have no direct or incidental effects that would result in discrimination, stigmatization and racial or religious profiling. This is particularly important, as targeting specific communities may lead to further marginalization and grievances. Fully and inclusively engaging communities in designing the programmes aimed at them is the best way to avoid unintended negative consequences and to guarantee that such programmes address the political, social, security-related and other issues identified by the community as matters of concern.

32. In a number of States, security forces, in particular law enforcement agencies, seem to be at the forefront of programmes to prevent and counter violent extremism. While security actors may play a constructive role in these initiatives, the nature and extent of their involvement needs to be carefully devised, as it may be detrimental to relations with the community if the counter-terrorism agenda is mixed with the community cohesion

[48] Peter Romaniuk, "Does CVE work? Lessons learned from the global effort to counter violent extremism" (Global Center on Cooperative Security, 2015).

agenda. Such an approach may also pose serious human rights concerns, above all in cases in which civil servants involved in education, social service or even health delivery programmes bear a statutory obligation to share information about those with whom they interact. Whenever such obligation exists, transparency about it with the beneficiaries of such services is paramount.

33. In addition, programmes to prevent and counter violent extremism should not serve as a cover for broad law enforcement or intelligence collection activities. While such an approach may yield short-term benefits, there is a grave risk that it will result in undermining the community's trust in public authorities. It may have a negative impact on the ability of law enforcement actors to operate within the respective community, which may lead them to resort to ever more intrusive measures, potentially setting into motion a vicious circle of violence and abuse.

34. Sustainable and effective community outreach requires long-term engagement tailored to the specific context. Those involved in the delivery of such programmes should undergo requisite training to ensure that they have full knowledge and understanding of the background to the programme and the context in which they operate. Furthermore, engagement must take into account the individuals and groups concerned. No community should be seen as a homogeneous entity. In particular, due regard should be given when devising such programmes to the situation and needs of groups that are particularly disadvantaged within the respective community.

35. Some efforts in that regard have tended to emphasize women's engagement in ways that have reinforced gender stereotypes[49] or have led to women being perceived as mere tools of national security.[50] Community engagement frequently goes hand in hand with placing the family structure at the front line of prevention of violent extremism. However, placing an emphasis on women as primary agents due to their presumed position within the household is largely based on gender stereotypes. Moreover, focusing efforts to prevent and counter violent extremism on assistance to men and boys because they are considered to be most at risk of "radicalization" in a particular community may lead to allocating or reallocating resources in a way that risks further marginalizing women and girls, who often face more acute needs in their community.[51] Consultations with local women's groups when drafting programmes will help in finding ways to address these challenges.

36. Religious leaders also play an important role in preventing incitement to violence. Interreligious and intrareligious dialogue initiatives have been identified as essential factors to preserve the space for tolerance and mutual respect.[52] In this context, representatives from different religions and faiths committed in the declaration adopted on 24 April 2015 in Fez, Morocco,[53] inter alia, to publicly denounce all acts of violence, discrimination and

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[49] See Jayne Huckerby, "Feminism and international law in the post-9/11 era", *Fordham International Law Journal*, vol. 39, No. 3 (2016), p. 550.

[50] See e.g. United Nations Entity for Gender Equality and the Empowerment of Women, *Preventing Conflict, Transforming Justice, Securing The Peace* (2015); and Jayne Huckerby, "Women and preventing violent extremism: the U.S. And U.K. experiences", briefing paper (New York, NYU Centre for Human Rights and Global Justice, 2012).

[51] See Huckerby, "Feminism and international law in the post-9/11 era", p. 558; and Centre For Human Rights and Global Justice, *A Decade Lost: Locating Gender in U.S. Counter-Terrorism* (New York, NYU School of Law, 2011).

[52] Input from Senegal.

[53] Input from Morocco; and draft declaration of the forum on the role of religious leaders in preventing incitement that could lead to atrocity crimes, held in Fez, Morocco, on 24 April 2015, available from www.un.org/en/preventgenocide/adviser/pdf/FezDeclaration.pdf.

incitement to violence, including those perpetrated in the name of religion or belief, as well as to refrain from disseminating messages of incitement to hatred.

37. Comprehensive community outreach should be carried out with the aim of fighting exclusion and marginalization. This implies ensuring that individuals from all communities are provided access to basic services in a non-discriminatory manner, that enjoyment of economic, social and cultural rights is enhanced, and that equal participation of all in political and public life is guaranteed, in accordance with the principle of equality and non-discrimination, as provided in international human rights law.

38. Civil society should be viewed as a key ally in endeavours to prevent violent extremism. Civil society organizations may be best placed to implement activities relating to preventing and countering violent extremism, including through partnerships with relevant authorities, in particular in contexts in which State involvement has proven counterproductive or would undermine trust between authorities and communities.[54] To maintain and further the community's trust, both the authorities and civil society organizations involved in such activities should be transparent about the level of contact between organizations providing services to the community and the authorities, including any requirements to report on interactions with the beneficiaries of programmes, as well as about the goals and intentions of their engagement.[55] State oversight of civil society organizations should not unduly interfere with their work and should not be of a nature that would risk undermining the confidence between the respective organization and the community it serves.

39. The duty of States to exercise due diligence in ensuring that the human rights of individuals or groups are not subject to abuse by non-State actors includes the duty to provide the requisite conditions and safe space for civil society organizations to be able to carry out their work. These organizations face particularly difficult challenges when engaged in a context or territory where violent extremist groups are present.[56] In such cases, initiatives to preserve or widen civil society space may be further developed.

40. States have the responsibility to set up the necessary regulatory and operational framework to ensure that non-profit organizations are not misused for the financing of terrorism. However, measures taken in this regard, in particular when paired with overly broad definitions of material support to terrorism, have in some countries resulted in restrictions on civil society funding. The Special Rapporteur on the rights to freedom of peaceful assembly and of association has stressed that many of these restrictions do not legitimately advance the fight against money-laundering and terrorism, but rather are motivated by political reasons.[57] The adverse effect is particularly great on organizations operating in contexts in which groups considered "terrorist" or "violent extremist" are active, thereby having a negative impact on the delivery of much-needed assistance to populations present in such territories.[58]

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[54] Peter Romaniuk, "Does CVE work?".

[55] See Organization for Security and Cooperation in Europe, *Preventing Terrorism and Countering Violent Extremism and Radicalization*, p. 122; Radicalisation Awareness Network (RAN), *RAN Collection: Preventing Radicalisation to Terrorism and Violent Extremism* (2016), pp. 51, 88, 199 and 201.

[56] Naz Modirzadeh, "If it's broke, don't make it worse".

[57] See A/69/365, para. 35.

[58] See A/HRC/23/39, para. 25; A/70/371, paras. 17-44; statement by Maina Kiai, Special Rapporteur on the rights to freedom of peaceful assembly and of association, at the Financial Action Task Force consultation and dialogue meeting with non-profit organizations held on 18 April 2016, available

41. Grass-roots organizations, especially those representing disadvantaged groups, are frequently small-sized. They face particular difficulties, as rules to counter the financing of terrorism tend to favour large, well-known organizations and require strict reporting and auditing requirements. Grass-roots organizations often do not have the administrative infrastructure necessary to comply with the imposed reporting and auditing requirements.[59] These circumstances frequently result in the inability of small organizations to attract the funding needed for their operations and have a negative impact on the groups supported by them.

B. Youth engagement

42. Programmes involving youth should feature prominently in efforts to prevent and counter violent extremism. Many young people experience a sense of disenfranchisement and marginalization, which may leave them vulnerable to violent extremism. In addition to being potential perpetrators and victims of violent extremism, young people are also crucial players in prevention efforts and thus an important part of any solution.[60]

43. Young people can be engaged in a variety of ways, including through educational, arts or sports activities.[61] The most effective programmes are peer driven and aimed at developing life skills, such as conflict management, teamwork, tolerance and empathy.[62] These skills can be developed in the context of programmes aimed at furthering political, ethnic, social and religious tolerance, cultural diversity and gender equality, as well as at increasing knowledge about democratic values and human rights.

44. While online and offline "counter-narrative" campaigns aimed at reaching a large group of young people may be "of great value as means of general education, designed to raise the population's awareness and building a resilient society",[63] direct engagement in small groups has shown the highest effectiveness, in particular with youth at imminent risk of joining violent extremist groups.[64]

45. Participation in any such programmes and activities should be on a voluntary basis. There is also a need to ensure that initiatives are neither devised nor implemented in a manner that would result in discrimination or racial or religious profiling. They should include youth from all backgrounds as opposed to solely focusing on those which the authorities or implementing organization consider to be at risk of violent extremism.

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from www.ohchr.org/Documents/Issues/IAssociation/UNSR_statement_FATFmeeting-13April2016.pdf; and Naz Modirzadeh, "If it's broke, don't make it worse".

[59] See Center for Human Rights and Global Justice, *A Decade Lost: Locating Gender in U.S. Counter-Terrorism* (New York, New York University School of Law, 2011), sect. IV.

[60] See Secretary-General's remarks at open debate on the role of youth in countering violent extremism and promoting peace, available from www.un.org/sg/statements/index.asp?nid=8568.

[61] United Nations Educational, Scientific and Cultural Organization (UNESCO), *A Teacher's Guide on the Prevention of Violent Extremism* (Paris, 2016).

[62] Ibid.; input from the Order of the Teaspoon foundation; and Radicalisation Awareness Network, *RAN Collection: Preventing Radicalisation to Terrorism and Violent Extremism*.

[63] Harald Weilnböck, "Confronting the counter-narrative ideology: Embedded face-to-face prevention and youth (media) work" (Cultures Interactive, 2015), available from http://cultures-interactive.de/fachartikel.html.

[64] Radicalisation Awareness Network, *RAN Collection: Preventing Radicalization to Terrorism and Violent Extremism*; and Harald Weilnböck, "Responding to violent extremism needs more investment in human resources practitioners, less in videos and Internet" (Cultures Interactive, 2015), available from http://cultures-interactive.de/fachartikel.html.

46. Educational institutions and other organizations engaging with youth must provide for safe spaces where young people can freely express their views in full respect of human rights, notably the right to freedom of opinion and expression, and without any fear of adverse consequences. In particular, the importance of spaces for the development of critical thinking skills, which allow youth to challenge the arguments of violent extremists, needs to be highlighted.[55] A platform for debate should be provided, including to address biases and prejudices. Engaging with such ideas in an open and constructive manner is more likely to yield positive results than shutting down discussion.

47. National human rights institutions and civil society organizations can play a central role in developing human rights education and training tailored to youth. Furthermore, it is important to ensure coordination among the various providers of training courses and to ensure that youth workers themselves benefit from human rights education and training as a means of bringing a stronger human rights perspective to their work and to maintaining a democratic, tolerant and sustainable society that promotes human values and mutual respect.[56]

48. When engaging with youth, educators and social workers should not be required to share information about the individuals they work with unless the information is of a criminal nature or sharing it is in the best interests of a child. Requiring those working with young people to report on them not only unduly interferes with these young people's human rights, including their right to privacy and freedom of opinion and expression, but may also have a negative impact on the effectiveness of these youth engagement programmes.

C. Preventing and countering violent extremism online

49. The role of the Internet, and in particular of social media, has often been emphasized in the context of preventing and countering violent extremism. The Security Council has repeatedly called on States to strengthen international cooperation in countering the use of the Internet and social media for terrorist purposes, in particular with regard to efforts to stem the flow of foreign fighters to areas of armed conflict.[57] The Secretary-General's Plan of Action to Prevent Violent Extremism describes the Internet both as a platform used for recruitment efforts by violent extremist groups and as a tool for challenging the narrative propagated by such groups.[58]

50. The Internet and digital technologies can be used for both positive and harmful ends. While they are crucial tools for sharing and collecting information, as well as for fostering democratic participation, their potential has also been abused by certain violent extremist groups to recruit followers. Indeed, the Internet and digital communications technologies have become a means through which human rights are exercised as well as the means through which they are violated.

51. In the era of "big data", States as well as information and communications technology providers have the capacity to censor expression, block or filter access to information, intercept data and monitor online activity. As the OHCHR report on the right to privacy in the digital age put it, "the technological platforms upon which global political, economic and social life are increasingly reliant are not only vulnerable to mass

[55] Input from the United Kingdom.
[56] Inputs from Finland, Morocco and Slovenia.
[57] Security Council resolutions 1373 (2001), 1624 (2005) and 2178 (2014).
[58] See A/70/674, para. 55.

surveillance, they may actually facilitate it."[69] The same is true in relation to controlling content online. While the Internet has unleashed huge potential for the free flow of information, there is also an expanded possibility of overreach by States in which the Internet is extensively controlled.

52. A key component of many policies and measures aimed at preventing and countering violent extremism is focused on effectively responding to violent extremism online. The level of intrusiveness of measures and their impact on human rights depends on the definition of notions such as "extremism", "violent extremism" and "radicalization" and the perceived role played by extremist ideas, including exposure to such ideas, in processes leading individuals to turn to violent extremism or terrorism.

53. Restrictions on access to information and communications technology range from complete network shutdowns or disruptions, to blocking access to certain platforms, to imposing restrictions on individuals connecting to, or using, certain technologies. The blocking or removal of specific content has been used as a measure to counter violent extremism. States invoke various reasons for the necessity of employing such measures, including the need to prevent radicalization, violent extremism and the recruitment of foreign fighters; countering incitement to acts of terrorism; and stopping the dissemination of terrorist material.

54. The above-mentioned measures, however, are at odds with the individualized assessment required under human rights law. States have to provide evidence-based justification of the necessity and proportionality of such interference with freedom of expression. They must demonstrate how the perceived benefits of these measures outweigh the importance of the Internet as a tool to maximize the number and diversity of voices in the discussion of numerous issues. Any lack of transparency with regard to blocking or content removal measures renders it difficult to assess whether such restrictions were really necessary for the purported aim. Consequently, there is a need for much greater transparency by States to clarify what content they are filtering, blocking or removing and on what basis.

55. States may also use information and communications technology companies to control and regulate access to content in the digital space. When doing so, States resort to formal legal processes, including court orders and intermediary liability systems, that force companies to actively monitor content, or to more diffuse forms of pressure to cooperate. Host providers and social media platforms face increasing pressure to actively monitor and police content generated or disseminated by users, a trend exacerbated by the use of information and communications technology by violent extremists and terrorist groups.

56. Another frequently employed means in the fight against violent extremism is the monitoring of online content: surveillance, interception, collection and retention of data. Some States have claimed that mass surveillance is "necessary" to detect terrorist plots and identify terrorists, violent extremists, their recruiters and other supporters.[70] The gathering, storage and use of data can have an impact on a number of human rights, including the rights to privacy, freedom of peaceful assembly and association, and freedom of movement.[71] The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression highlighted that online surveillance may also undermine the right to form an opinion, as the fear of unwilling disclosure of online activity, such as

[69] See A/HRC/27/37, para. 2.
[70] A/69/397.
[71] See A/HRC/13/37, paras. 33-38.

search and browsing, may deter individuals from accessing information, particularly where such surveillance leads to repressive outcomes.[72]

57. As affirmed by the General Assembly[73] and the Human Rights Council,[74] rights enjoyed offline must also be protected online, including the right to privacy. While the right to privacy is not an absolute right, it must be protected against unlawful or arbitrary interference.[75] For an interference to be in line with international human rights law, the national law allowing it must be sufficiently accessible, clear and precise so that an individual may look to the law and ascertain who is authorized to conduct surveillance and under what circumstances.[76] Surveillance must be based on reasonable suspicion, and any order authorizing it must be sufficiently targeted.[77] Surveillance programmes frequently fail this requirement.[78] Prior judicial authorization and effective independent oversight during and after surveillance are additional important safeguards against arbitrariness.[79]

58. The General Assembly[80] and OHCHR[81] have called upon all States to review their procedures, practices and legislation related to communications surveillance, interception and collection of personal data, emphasizing the need for States to ensure the full and effective implementation of their obligations under international human rights law.[82] As also highlighted by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, mass secret surveillance is not permissible under international human rights law, as an individualized necessity and proportionality analysis would not be possible in the context of such measures.[83]

59. As previously noted, there is strong evidence of growing reliance by States on the private sector to conduct and facilitate digital surveillance, using both formal legal mechanisms and covert mechanisms to gain access to content and metadata. Companies that provide mass and targeted surveillance technologies without adequate safeguards are of particular concern, in particular because such technologies may be used to silence dissidents.[84] The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression warned that it is all too common for private companies to censor, conduct surveillance, or enforce other restrictions on freedom of expression, often under pressure from Governments, but sometimes on their own initiative.[85] The Guiding Principles on Business and Human Rights, which were endorsed by the Human Rights Council in its resolution 17/4, provide an important framework for the consideration

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[72] See A/HRC/29/32, para. 21.
[73] General Assembly resolutions 68/167 and 69/166.
[74] Human Rights Council resolutions 20/8 and 26/13.
[75] See A/HRC/27/37, paras. 22-23; see also A/HRC/13/37, para. 17.
[76] See A/HRC/27/37, para. 23.
[77] See European Court of Human Rights, Grand Chamber, *Zakharov v. Russia* (4 December 2015), para. 248; European Court of Human Rights, Fourth Section, *Szabo and Vissy v. Hungary* (12 January 2016), para. 77; and CCPR/C/NZL/CO/6, para. 16.
[78] See A/69/397, para. 37; and A/HRC/27/37.
[79] See A/HRC/14/46, para. 34.
[80] General Assembly resolutions 68/167 and 69/166.
[81] See A/HRC/27/37, para. 50.
[82] See A/69/397, para. 31.
[83] See See A/HRC/27/37, para. 25; and A/69/397, para. 47.
[84] Reporters without Borders, "Enemies of the Internet 2013 report – special edition: surveillance", introduction ("Era of the digital mercenaries").
[85] A/HRC/32/38; and www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20115&LangID=E.

of private business responsibilities in the information and communications technology sector worldwide.

V. Conclusions and recommendations

60. The impact of violent extremism on human rights cannot be underestimated in view of the shocking brutality perpetrated on a daily basis. Each State has the duty to take measures to protect all individuals within its territory and those subject to its jurisdiction from violence. These measures must be consistent with human rights. Protecting human rights and ensuring respect for the rule of law contribute to preventing and countering violent extremism. Responses to violent extremism that respect and protect human rights are also more effective and sustainable.

61. Key concepts related to violent extremism should be clearly defined, particularly when they are likely to trigger measures that may interfere with human rights. This is of particular concern where domestic legislation creates criminal offences based on such concepts. There are also risks of human rights violations when the terms "extremism" or "radicalization" are used to cover non-violent activity. States should ensure that the focus of their measures is on actual conduct, rather than mere opinions or beliefs. International human rights law provides a clear framework for the promotion and protection of human rights. In particular, the right to hold an opinion and the freedom to have or adopt a religion or belief of one's choice cannot be subject to any restrictions.

62. In cases in which international human rights law permits restrictions, the State must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of the concerned rights. Therefore, when adopting measures to prevent or counter violent extremism that entail restrictions on rights, in particular freedom of expression and the right to privacy, States must provide clear and evidence-based justifications for these measures and demonstrate how their perceived benefits outweigh the harm caused.

63. Adequately conceptualized and transparent programmes aimed at preventing and countering violent extremism have the potential to contribute both to enhanced security and to better protection of human rights. However, there is a clear need for vigilance in ensuring that measures to prevent and counter violent extremism fully comply with international human rights law.

64. Recurring components of programming to prevent and counter violent extremism include community engagement and empowerment, as well as youth engagement. Activities undertaken or supported by States to prevent or counter violent extremism should be gender sensitive, inclusive, tailored to the specific local context and based on a climate of trust between the State and those under its jurisdiction. Supporting the resilience of communities to threats of violent extremism is vital. Any programmes and measures must neither discriminate nor stigmatize particular groups or communities. Efforts to prevent and counter violent extremism should neither directly nor indirectly result in racial, religious or other profiling.

65. Measures to prevent and counter violent extremism online should clearly set out the legal basis, criteria and guidance on when, how and to what extent online content is blocked, filtered or removed. States should also review their laws, policies and practices with regard to surveillance, interception, collection and retention of personal data in order to ensure full conformity with international human rights law. If there are any shortcomings, States should repeal, amend or promulgate such laws

to ensure that there is a clear, precise, accessible, comprehensive and non-discriminatory legal framework. Information and communications technology companies should allow surveillance of individuals on their platforms only when ordered to do so following judicial intervention.

66. An approach based on strengthening the rule of law, with appropriate checks and balances, is essential for the legality and legitimacy of any measures and programmes to prevent and counter violent extremism. They should be based on human rights impact assessments and subject to meaningful oversight through independent and effective mechanisms set up at the national level. Constant monitoring and regular review will help to ensure that these measures and programmes achieve their goals and that any negative impact on human rights is promptly addressed. Such monitoring and review should be conducted in an inclusive manner and with meaningful and free civil society involvement. There is also a need for accessible accountability processes that enable resorting to justice and accessing remedies.

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Agenda items 2 and 3
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Human rights of migrants

Note by the Secretary-General*

In its resolution 70/147 on the protection of migrants, the General Assembly requested the Secretary-General to submit to the General Assembly and the Human Rights Council at their seventy-first and thirty-third sessions, respectively, a comprehensive report entitled "Human rights of migrants", covering all aspects of the implementation of the resolution.

The report of the Secretary-General on the promotion and protection of human rights, including ways and means to promote the human rights of migrants (A/71/284), which will be submitted to the General Assembly for consideration at its seventy-first session, contains a summary of the written submissions received from Governments in response to a note verbale sent from the Office of the United Nations High Commissioner for Human Rights on behalf of the Secretary-General requesting information on the implementation of the resolution. The Secretary-General, therefore, has the honour to refer the Human Rights Council to that report.

* The present document was submitted after the deadline in order to reflect the most recent information.

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Right to development*

Report of the Secretary-General and the United Nations High Commissioner for Human Rights

Summary

The present report contains an overview of the activities of the Office of the United Nations High Commissioner for Human Rights relating to the promotion and realization of the right to development. It covers the period from May 2015 to June 2016 and complements the report of the Secretary-General and the High Commissioner on the right to development submitted to the Human Rights Council at its thirtieth session (A/HRC/30/22).

* The annexes are being circulated as received in the language of submission only.

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I. Introduction

1. In its resolution 48/141 establishing the post of United Nations High Commissioner for Human Rights, the General Assembly decided that the High Commissioner would, inter alia, promote and protect the realization of the right to development and enhance support from relevant bodies of the United Nations system for this purpose. The Assembly also decided that the High Commissioner would recognize the importance of promoting a balanced and sustainable development for all people and of ensuring the realization of the right to development, as established in the United Nations Declaration on the Right to Development.

2. The Human Rights Council, in its resolution 30/28, requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to continue to submit to the Council an annual report on its activities, including on inter-agency coordination within the United Nations system, relating to the promotion and the realization of the right to development.

3. In its resolution 70/155, the General Assembly reaffirmed the request to the High Commissioner, in mainstreaming the right to development, to effectively undertake activities aimed at strengthening the global partnership for development among Member States, development agencies and the international development, financial and trade institutions and to reflect those activities in detail in his next report to the Human Rights Council.

4. In the same resolution, the General Assembly requested the Secretary-General to submit a report to the Assembly at its seventy-first session and an interim report to the Human Rights Council on the implementation of the resolution, including efforts undertaken at the national, regional and international levels in the promotion and realization of the right to development.

5. The present report is submitted in accordance with the above requests and provides information on the activities undertaken by OHCHR and the United Nations human rights mechanisms between May 2015 and June 2016.

II. Activities of the Office of the United Nations High Commissioner for Human Rights

6. In implementing its mandate to promote and protect the realization of the right to development, OHCHR is guided by the Declaration on the Right to Development, the Vienna Declaration and Programme of Action, relevant resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council and agreed conclusions and recommendations of the Working Group on the Right to Development.

7. The OHCHR operational programme for the realization of the right to development is contained in the Secretary-General's strategic framework for the period 2016-2017 and the OHCHR management plan for the period 2014-2017.

See A/69/6/Rev.1, pp. 465-466, OHCHR Management Plan 2014-2017: Working for your rights, pp. 63-71, and A/HRC/27/27, paras. 6-13.

A. Support to the Working Group on the Right to Development

8. OHCHR provided support to the Working Group on the Right to Development for the organization of its resumed sixteenth annual session,[3] held from 1 to 4 September 2015, and its seventeenth annual session,[4] held from 25 April to 3 May 2016. OHCHR also supported the Chair-Rapporteur during the intersessional period, in holding informal consultations and presenting the report of the Working Group to the Human Rights Council and the General Assembly.

9. At its sixteenth session, the Working Group considered a draft framework to improve the effectiveness and efficiency of the Working Group, prepared by the former Chair-Rapporteur.[5] At its seventeenth session, it considered standards for the implementation of the right to development, prepared by the Chair-Rapporteur.[6] The Working Group also completed the second reading of the draft right to development criteria and operational subcriteria.[7]

10. The Working Group held an interactive dialogue on the 2030 Agenda for Sustainable Development with the former co-facilitators of the intergovernmental negotiations on the post-2015 development agenda, the Permanent Representative of Ireland to the United Nations and the Permanent Representative of Kenya to the United Nations.[8]

B. Activities relating to the promotion and realization of the right to development

11. During the period under review, OHCHR conducted numerous activities, many of which were devoted to marking the thirtieth anniversary of the Declaration on the Right to Development. Examples of these activities are summarized below.[9] In addition, OHCHR paid due attention to the right to development in the context of its support to human rights mechanisms.

12. In Colombia, OHCHR advocated for the incorporation of a human rights-based approach to the national development plan as a means of achieving the right to development and peace. Special attention was paid to devising indicators for measuring the realization of economic, social and cultural rights. OHCHR also worked to promote and protect the right to development of indigenous peoples and Afro-Colombians and supported the creation of a network of 14 indigenous peoples to claim their collective rights.

13. In Uganda, OHCHR focused on building institutional capacities to promote and protect the right to development. It provided technical assistance to the Government on integrating a human rights-based approach to programming in the national development plan, including by integrating human rights indicators in its monitoring and evaluation framework. OHCHR strengthened the capacity of non-governmental organizations to effectively participate in the development process and to monitor the implementation of the plan and supported the launch of a network of public interest litigators, with a focus on

[3] See A/HRC/30/71.
[4] See A/HRC/33/45.
[5] A/HRC/WG.2/16/2.
[6] A/HRC/WG.2/17/2.
[7] A/HRC/15/WG.2/TF/2/Add.2.
[8] See A/HRC/33/45.
[9] More information on these and other activities is available at www.ohchr.org/EN/Issues/Development/Pages/DevelopmentIndex.aspx.

economic, social and cultural rights. In parallel, OHCHR conducted training sessions for judges of the Supreme Court, the Court of Appeal and the Constitutional Court on adjudicating violations of economic, social and cultural rights. Finally, the OHCHR office in Uganda supported a consortium of civil society organizations and legal networks, which organized the second National Conference on Economic, Social and Cultural Rights on the theme "Tackling social exclusion in access to socioeconomic goods and services for sustainable development".

14. In South America, OHCHR supported the implementation of the Sustainable Development Goals from a human rights-based perspective and focused on the dissemination of OHCHR key messages on human rights in the 2030 Agenda for Sustainable Development, training and capacity-building. In Africa, OHCHR continued to work on a human rights impact assessment of the Continental Free Trade Area agreement in collaboration with the Economic Commission for Africa through a scoping study.[9] Several risks were identified in relation to the negotiation of the agreement and preliminary recommendations were made with regard to food security, employment and freedom of movement. The assessment provides the negotiating countries with an evidence base and policy recommendations from which to develop an effective and cohesive trade policy that is aligned with human rights and development commitments and priorities.

15. At the global level, OHCHR advocated integrating the right to development into the financing for development, climate change and sustainable development processes, provided technical advice in the areas of trade and investment, intellectual property and access to medicines and supported special procedure mandate holders in these areas.

16. OHCHR also prepared a think piece on responsible contracting and harnessing human rights to transform investment[10] for the E15 initiative on strengthening the global trade and investment system for sustainable development, which was coordinated by the World Economic Forum and the International Centre for Trade and Sustainable Development. The paper was aimed at infusing ethical and normative considerations into State-investor contracts and incorporating human rights into these contracts. In addition, OHCHR published the report "Principles for responsible contracts: integrating the management of human rights risks into State-investor contract negotiations — Guidance for negotiators",[11] carried out research and issued a report and a companion document setting out guidance to improve corporate accountability and access to judicial remedies for victims of business-related human rights abuse.[12]

17. OHCHR prepared the annual report of the Secretary-General to the General Assembly on globalization and its impact on the full enjoyment of all human rights.[13] In the report, common concerns were identified and recommendations were made on how to address the negative impact of globalization on the full enjoyment of human rights. OHCHR published an illustrated report on access to medicines in the context of the right to health[14] that outlines the main conclusions and recommendations of the 2015 Social Forum

[9] See "Designing the Continental Free Trade Area (CFTA): an African human rights perspective" (May 2012), available at www.fes-globalization.org/geneva/documents/2016/2016_05_HRIA%20of%20the%20CFTA_Publication.pdf.

[10] Available at www.ohchr.org/Documents/Issues/Globalization/E15-Investment-OHCHR.pdf.

[11] See A/HRC/17/31/Add.3; also available at www.ohchr.org/Documents/Publications/PrinciplesResponsibleContracts_HR_PUB_15_1_EN.pdf.

[12] See A/HRC/32/19 and Add.1.

[13] A/70/154.

[14] Available at www.ohchr.org/Documents/Issues/SForum/SForum2015/OHCHR_2015-Access_medicines_EN_WEB.pdf.

of the Human Rights Council on the same topic. OHCHR finalized a publication on human rights and budgets, which will become available during the course of 2016.

18. To mark the thirtieth anniversary of the Declaration on the Right to Development, OHCHR published a fact sheet entitled "Frequently asked questions on the right to development" and produced a short video entitled "The right to development — development is a human right".[15] OHCHR also published the booklet "International Decade for People of African Descent, 2015-2024: recognition – justice – development", which contains a chapter on the right to development and measures against poverty.[16]

19. In May 2015, OHCHR co-organized with the Prince Claus Chair, the International Institute of Social Studies (Erasmus University, Rotterdam) and The Hague Institute for Global Justice a high-level round table on the theme "Thinking ahead: the right to development approaching 30". The objective of the round table was to consider the continued relevance of the right to development and how it could be revitalized and implemented so as to equitably meet the developmental and environmental needs of present and future generations. During the discussion, OHCHR underscored the continued relevance of the right to development, in particular as a framework for achieving sustainable development.[17]

20. In September 2015, the Office organized the first Human Rights Council biennial panel discussion on unilateral coercive measures and human rights. The objective of the discussion was to increase awareness of the negative impact that unilateral coercive measures can have on the enjoyment of human rights in targeted and non-targeted countries.[18]

21. During the March 2016 session of the Human Rights Council, OHCHR organized a panel discussion on human rights mainstreaming, focusing on the 2030 Agenda for Sustainable Development and human rights, with an emphasis on the right to development. The United Nations High Commissioner for Human Rights underscored that the right to development provided an enabling environment to ensure that the goals of the 2030 Agenda would be achieved in practice, and that processes of development were inclusive and just. Referring to further convergences between the 2030 Agenda and the Declaration, the High Commissioner noted that the Declaration addressed the structural impediments that disadvantaged the poor and prevented development from benefiting all.[19]

22. OHCHR also organized, together with the University for Peace and the Forum of Catholic-inspired Non-governmental Organizations, a side-event entitled "In search of dignity and sustainable development for all". The objective of the event was to consider how operationalizing the right to development could create an environment conducive to the realization of the 2030 Agenda and how the 2030 Agenda could support the realization of the right to development. Participants also discussed the means to integrate, claim and build capacity on the right to development among local communities, and research and educational programmes.[20]

[15] Available at www.ohchr.org/Documents/Publications/FSheet37_RtD_EN.pdf and www.youtube.com/watch?v=pdKfypB1tdI#t=16, respectively.

[16] Available at www.un.org/en/events/africandescentdecade/pdf/African%20Descent%20Booklet_WEB_English.pdf.

[17] See www.ohchr.org/Documents/Issues/Development/PrinceClausReport27May2015.pdf.

[18] See A/HRC/31/82.

[19] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17109&LangID=E.

[20] See www.ohchr.org/EN/Issues/Development/Pages/SearchOfDignity.aspx.

23. The Deputy High Commissioner for Human Rights delivered remarks at the African Group side event on the right to development. She highlighted the importance of the 2030 Agenda for Sustainable Development, the Addis Ababa Action Agenda of the Third International Conference on Financing for Development and the Paris Agreement on climate change for the realization of the right to development. She also underlined the need to combat inequality within and among countries so as to leave no one behind, starting first, wherever possible, with those furthest behind. She stated that persistent poverty and deepening inequalities were major threats to human rights and development, and thus directly to peace and security.[21]

24. OHCHR supported the intergovernmental processes leading to the adoption of the Addis Ababa Action Agenda on financing for development, the 2030 Agenda, including the Sustainable Development Goals and the Paris Agreement on climate change. OHCHR published the advocacy tool "Key messages on human rights and financing for development" (see annex I). The High Commissioner sent an open letter on human rights in the financing for development agenda[22] to States calling upon them to take specific measures to ensure an inclusive and participatory financing for development agenda that would benefit the most vulnerable, hold all parties and stakeholders accountable, and fulfil the human rights commitments to work together towards a better world.

25. OHCHR also organized a side event and delivered a statement on behalf of the High Commissioner to the plenary session of the Third International Conference on Financing for Development. In the statement, the High Commissioner underscored that financing for development must satisfy the demands of all persons to have their most basic needs met in a world that did not lack the means, but had failed to demonstrate the will, to make human rights a reality for all. He called upon States to ensure that their efforts to finance the 2030 Agenda for Sustainable Development reflected the needs and demands of people, that they fully integrated relevant human rights commitments and encapsulated the imperative of human rights-based policy coherence.[23]

26. As a result of advocacy by OHCHR and others, the Addis Ababa Action Agenda contains numerous human rights considerations such as the Guiding Principles on Business and Human Rights, reporting on environmental, social and governance impacts and the need for environmental and social safeguards in the context of activities by businesses and development banks. Members States agreed to promote financial inclusion, reduce inequalities, seek to eradicate extreme poverty, ensure gender equality and provide social protection and essential public services for all, with a focus on those furthest below the poverty line. Civil society organizations increasingly adopted a rights-based analysis to financing for development.

27. OHCHR advocated for the centrality of all human rights, including the right to development, in the 2030 Agenda for Sustainable Development, and called for more equitable development, including at the global level. OHCHR has consistently emphasized that the 2030 Agenda is explicitly guided by the purposes and principles of the Charter of the United Nations, including full respect for international law, grounded in the Universal Declaration of Human Rights, international human rights treaties and informed by other instruments, including the Declaration on the Right to Development.[24] OHCHR played an active role in the development of the Sustainable Development Goal indicators and

[21] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17126&LangID=E.

[22] See letter at www.ohchr.org/Documents/Issues/MDGs/Post2015/20150617_HC_open_letter_HR_FFD.pdf.

[23] See statement at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16246.

[24] See General Assembly resolution 70/1, para. 10.

advocated for data disaggregation in line with the recognized grounds of discrimination, to capture progress in combatting inequalities, inequities and discrimination. OHCHR published the guidance note to data collection and disaggregation entitled "A human rights-based approach to data: leaving no one behind in the 2030 Agenda".[25]

28. OHCHR organized the signing ceremony for the Geneva Pledge for Human Rights in Climate Action, which was hosted by the Permanent Mission of Costa Rica to the United Nations Office and other international organizations in Geneva. The pledge calls for meaningful collaboration among national representatives in the human rights and climate change processes to inform climate action. OHCHR engaged in the negotiations of the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, held in Paris in December 2015. OHCHR advocated the most ambitious climate mitigation target possible, demanded accelerated and equitable climate action and called for all such action to respect and protect human rights, including the right to development. The OHCHR "Key messages on human rights and climate change" (see annex II) served as the basis for this advocacy.

29. The High Commissioner issued an op-ed and press releases and called for, inter alia, limiting warming to no more than 1.5 °C above pre-industrial levels, improved international cooperation to address climate change and the inclusion of strong human rights language in the operative part of the Paris Agreement. OHCHR submitted a paper entitled "Understanding human rights and climate change"[26] to the twenty-first session of the Conference of the Parties in Paris, supported several special procedure mandate holders in their engagement in the negotiations, participated in multiple side events and organized a press conference on human rights and climate change during Human Rights Day. During the twenty-ninth session of the Human Rights Council, OHCHR organized a panel discussion on the impacts of climate change on the enjoyment of the right to health. Panellists, including the Director General of the World Health Organization and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, emphasized the need for a rights-based approach to climate action.[27]

30. As a result of this and other advocacy, the Paris Agreement is the first multilateral climate agreement of its kind to include explicit reference to human rights. The Agreement also contains the ambitious objective of limiting warming to below 2 °C and pursuing efforts to bring it to 1.5 °C. Other positive elements include references to the principle of common but differentiated responsibility and equity, commitments on climate finance, a new transparency framework, a mechanism for monitoring and ratcheting up climate commitments, strengthened cooperation on loss and damages and special provisions for least developed countries and small island developing States as well as vulnerable groups, gender equality and women's empowerment.

C. Inter-agency cooperation and mainstreaming the right to development

31. Mainstreaming human rights, including the right to development, into United Nations system policies, operational activities, guidelines and tools on development

[25] See www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf.

[26] See www.ohchr.org/Documents/Issues/ClimateChange/COP21.pdf.

[27] See A/HRC/32/24 and A/HRC/32/23; also www.google.ch/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0ahUKEwix94Pc_obOAhUBFCwKHZVXDcEQFggIMAE&url=http%3A%2F%2Fwww.ohchr.org%2EN%2FHRBodies%2FHRC%2FRegularSessions%2FSession31%2FDocuments%2FClimateChange.doc&usg=AFQjCNFCTELeQzfQ8zwDseu8SZ8xY_yC8A.

programming is an integral part of the High Commissioner's mandate and a major pillar of the programme of work of the Office.

32. Through its country and regional offices, as well as through the Human Rights Working Group of the United Nations Development Group, OHCHR has provided support and technical assistance, including human rights advisers, to United Nations country teams on the application of a human rights-based approach to common country programming and in their work to assist Member States with the implementation of the 2030 Agenda, including in relation to the means of implementation. OHCHR worked to mainstream human rights and the right to development within the United Nations system, including by strengthening the human rights leadership capacities of resident coordinators and United Nations leaders through leadership dialogues and the induction programme for resident coordinators. OHCHR also contributed to the United Nations Development Group 2015 publication, *Guidance Note on Human Rights for Resident Coordinators and UN Country Teams*.[28]

33. During the 15-year effort to achieve the Millennium Development Goals, multilateral development bank support grew from $50 billion to $127 billion a year in grants, concessional and non-concessional loans, risk-sharing instruments, guarantees and equity investment.[29] However, trillions of dollars will be needed to finance the Sustainable Development Goals, including in high-risk sectors such as large-scale infrastructure. OHCHR has engaged with multilateral development banks since 2014 advocating, in accordance with the principles of the Declaration on the Right to Development, for more equitable development and more rigorous safeguard policies for investment lending with a view to ensuring that supported projects do not cause or contribute to human rights violations. In 2015, OHCHR focused primarily on the Environmental and Social Framework consultation processes of the World Bank and the Asian Infrastructure Investment Bank.

34. OHCHR continued to coordinate and support United Nations and inter-agency initiatives, such as the Fit for Purpose and the Mainstreaming, Acceleration, Policy Support initiatives, on mainstreaming human rights, including the right to development, in United Nations policies and operational programmes. The Human Rights Working Group of the United Nations Development Group, with the financial support of a multi-donor trust fund, advocated the integration of human rights in United Nations development work in all countries. OHCHR also supported the United Nations development system in delivering on the responsibilities and demands of the Human Rights Up Front initiative.

35. In March 2016, the United Nations System Chief Executives Board for Coordination adopted a statement of commitment aimed at placing the imperative of combating inequalities, inequities and discrimination at the forefront of United Nations efforts to support Member States in implementing the 2030 Agenda for Sustainable Development. The statement of commitment was based on a positioning paper on equality and non-discrimination prepared by the High-level Committee on Programmes.[30] As part of this initiative, OHCHR, jointly with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), is developing a shared framework for action on combating inequalities and discrimination.

[28] Available at https://undg.org/wp-content/uploads/2015/12/UNDG-Guidance-Note-on-Human-Rights-for-RCs-and-UNCTs-final.pdf.

[29] See www.worldbank.org/en/news/speech/2015/07/13/third-international-conference-financing-development.

[30] See CEB/2015/6, annex III.

III. 2030 Agenda for Sustainable Development and the implementation of the right to development

36. As the High Commissioner stated during the Human Rights Council high-level panel discussion on human rights mainstreaming, the 2030 Agenda and the Declaration on the Right to Development are powerfully linked. By placing people at its centre, the 2030 Agenda could generate political momentum for the realization of the right to development, while the right to development provided a vital enabling environment to ensure that the goals of the 2030 Agenda would be achieved in practice and that development processes were inclusive and just.[41]

37. The High Commissioner underscored the substantive convergence between the Declaration and the 2030 Agenda, the overall objective to eradicate discrimination and inequality, the need for international cooperation and assistance and the need to pay equal attention to freedom from fear and freedom from want. He also underlined the importance of accountability and of human rights indicators or data in this regard and the need to link human rights monitoring with the follow-up and review of the implementation of the Sustainable Development Goals.

38. The 2030 Agenda is informed by the Declaration on the Right to Development.[42] It is guided by the purposes and principles of the Charter of the United Nations, including respect for international law, and it is grounded in the Universal Declaration of Human Rights and international human rights treaties. The 2030 Agenda recognizes the need to build peaceful, just and inclusive societies that provide equal access to justice and that are based on, inter alia, respect for human rights (including the right to development).[43]

39. In addition to explicit recognition of the right to development, the 2030 Agenda indirectly reaffirms and recognizes that it is grounded in the right to development by citing the Millennium Declaration as a source. In the Declaration, Heads of State and Government committed to making the right to development a reality for everyone and to freeing the entire human race from want.[44] The 2030 Agenda also reaffirms the principles of the Rio Declaration on Environment and Development,[45] of which principle 3 stipulates that the right to development must be fulfilled so as to equitably meet the developmental and environmental needs of present and future generations.

40. Besides this direct and indirect recognition of the linkage between the 2030 Agenda for Sustainable Development and the right to development, there is also substantive convergence. Under article 4 (1) of the Declaration on the Right to Development, States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development. Undoubtedly, the 2030 Agenda for Sustainable Development constitutes such an international development policy.

41. Both the Declaration and the 2030 Agenda envisage a human-centred development process, in which all human rights can be fully realized. They both seek to eradicate poverty, discrimination and inequality, both within and among countries, with a view to improving the well-being of the human person and addressing the structural impediments that disadvantage the poor and prevent development from benefiting all. The 2030 Agenda,

[41] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17107&LangID=E.
[42] See General Assembly resolution 70/1, para. 10.
[43] Ibid., para. 35.
[44] See General Assembly resolution 55/2, para. 11.
[45] See General Assembly resolution 70/1, para. 12.

for example, pledges to leave no one behind and to focus on those furthest behind first. Two goals are dedicated to equality, with commitments to end discrimination against and exclusion of women and girls.

42. The 2030 Agenda acknowledges that freedom from want and freedom from fear need to be addressed together — echoing the emphasis placed by the right to development on human well-being, the indivisibility of all human rights and the right of every member of society to fully and freely participate in decision-making. The Declaration on the Right to Development proclaims development to be a right that entitles everyone to active, free and meaningful participation in development and to fair distribution of its benefits.

43. States have the duty to cooperate with each other to eliminate obstacles to development and to promote an economic order based on sovereign equality. The 2030 Agenda gives effect to this commitment through the specific implementation targets under each Goal as well as through the partnership commitments under Goal 17.

44. The Declaration addresses root causes, systemic issues and structural challenges in its quest for a new order for development at all levels. It recognizes the need for an enabling environment that is conducive to peace, human rights and socially and ecologically sustainable development. Likewise, the 2030 Agenda acknowledges the need to go far beyond the traditional development paradigm — which was focused on economic development — and to replace it with a holistic, transformative vision, covering all three dimensions of development: the economic, social and environmental.

45. Together with the Addis Ababa Action Agenda, Sustainable Development Goal 17 provides momentum for the realization of the right to development. Goal 17 targets announce commitments with regard to the mobilization of requisite financial resources; cooperation on and access to science, technology and innovation and knowledge sharing; enhancing international support for implementing effective and targeted capacity-building in developing countries; and promoting a universal, rules-based, open, non-discriminatory and equitable multilateral trading system.

46. The 2030 Agenda and the Addis Ababa Action Agenda also recognize the positive contribution and role of the private sector in development, while underscoring the need to protect labour rights and environmental and health standards in accordance with relevant international standards, agreements and other initiatives, such as the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and remedy" Framework.[16]

47. There are also differences between the 2030 Agenda for Sustainable Development and the Declaration on the Right to Development. Most importantly, the right to development is a human right. Expressed as an entitlement, development goes beyond volunteerism and charity; it is a right with corresponding obligations and duties. The Sustainable Development Goals, on the contrary, are an international development policy and a political commitment. The implementation of the Goals contributes to the realization of the right to development.

48. The Working Group on the Right to Development discussed the 2030 Agenda in the context of the right to development. Two of its recommendations are particularly relevant to this topic. It recommended that, in its future deliberations, the Working Group should study the contributions of States to the implementation of the right to development, at the national, regional and international levels, in keeping with the mechanisms relating to the Sustainable Development Goals. It also recommended that OHCHR consider facilitating the participation of experts in the eighteenth session of the Working Group to provide

[16] A/HRC/17/31.

advice in order to contribute to the discussion on the implementation and realization of the right to development and on relevant implications of the 2030 Agenda.[17]

49. These recommendations point to the future direction of the work of the Working Group and their implementation may contribute to making that work less politicized and more attuned to the ongoing intergovernmental process for the implementation of the Sustainable Development Goals.

IV. Conclusions and recommendations

50. **The 2030 Agenda for Sustainable Development can be considered an eminent international development policy and action agenda for the realization of the right to development. It is informed by and grounded in the right to development; indeed the right to development and, by extension, all human rights are at the heart of the 2030 Agenda.**

51. **The 2030 Agenda must be implemented in line with international law, including international human rights law. All human rights, including the right to development, must guide the implementation process at all levels.**

52. **Operationalizing the commitment to leave no one behind demands a coherent and integrated United Nations system-wide approach. All United Nations system policies and programmes relating to the implementation of the 2030 Agenda should therefore be explicitly anchored in and aligned with all human rights, including the right to development. Human rights principles and standards, including those of the right to development, should be increasingly integrated into finance, trade and investment policies in support of the Sustainable Development Goals.**

53. **The follow-up and review of the implementation of the Goals provide a solid basis for assessing the progressive realization of the right to development. Devising indicators to measure and serve as a tool for achieving the Goals, in particular the collection and disaggregation of data, must be based on human rights principles and standards.**

54. **Assessment of the progress in the implementation of the 2030 Agenda can provide complementary information to the human rights mechanisms, including the Working Group on the Right to Development, for their assessment of progress in the realization of human rights, including the right to development. At the same time, recommendations made by the Working Group and other human rights mechanisms can provide useful information for the Financing for Development follow-up and for the High-level Political Forum assessment of progress in the implementation of the 2030 Agenda.**

55. **The Guiding Principles on Business and Human Rights and the principles for responsible contracts[18] provide a solid basis for framing and directing private-sector engagement in the implementation of the 2030 Agenda and the Addis Ababa Action Agenda.**

56. **Efforts of civil society and national human rights institutions aimed at ensuring that all human rights, including the right to development, are respected in the implementation of the 2030 Agenda should be encouraged and supported.**

[17] See A/HRC/33/45.

[18] See A/HRC/17/31/Add.3.

Annex I

Key messages on human rights and financing for development of the Office of the United Nations High Commissioner for Human Rights

1. The following obligations and responsibilities should be reflected in efforts to finance development in order to foster policy coherence and to ensure equitable, inclusive development that benefits all persons without discrimination.

To expend maximum available resources

2. Under core human rights treaties, States acting individually and collectively, are obligated to mobilize and allocate the maximum available resources for the progressive realization of economic, social and cultural rights, as well as the advancement of civil and political rights and the right to development. To eradicate poverty, achieve the Sustainable Development Goals and fulfil their human rights commitments, States must endorse a financing framework that equals these ambitions. To mobilize the unprecedented amount of resources needed for the implementation of the 2030 Agenda for Sustainable Development, all stakeholders will need to effectively mobilize all available resources, including through new and innovative sources of finance (such as financial transaction taxes and carbon taxes) that are additional to traditional official development assistance (ODA), predictable and stable, and distribute global income to reduce inequalities.

International cooperation

3. States have committed to international cooperation for the realization of human rights. Meeting existing ODA commitments fully and in a timely manner will be critical to achieve the goal of ending extreme poverty by 2030 and represents one key step towards the fulfilment of State human rights commitments to mobilize maximum available resources for the promotion, protection and fulfilment of human rights. Pursuant to relevant human rights principles, ODA should be effective and transparent, it should be administered through participatory and accountable processes, and it should be targeted towards the people and groups most in need, including within those States where the ability to mobilize domestic resources is weakest.

To ensure participatory, human rights-based development

4. National Governments bear the primary responsibility for development in their own countries. National financing strategies, fiscal policies, tax systems, subsidies, development plans, and budgets should benefit the poorest and most marginalized and be the product of transparent and participatory processes. Effective governance for sustainable development demands that public institutions in all countries and at all levels conform to international human rights standards and principles and thus that they be non-discriminatory, inclusive, participatory and accountable to people. Laws and institutions must protect human rights under the rule of law, including in the economic sphere.

To create an international order in which all human rights can be realized

5. All countries bear responsibilities for international cooperation and to create an enabling international environment for development. The new global partnership for sustainable development must tackle global inequities, including in trade, finance and investment, as well as combating corruption, illicit flows of funds, trade mispricing and tax evasion.

To guarantee equal access and non-discrimination

6. States have committed to guarantee equality and non-discrimination. They should strive to ensure universal and transparent access to affordable and appropriate financial services across income, gender, geography, age and other groups. This implies establishing effective regulation, recourse mechanisms and consumer protection agencies to prevent predatory lending and ensure greater financial literacy of consumers.

To ensure empowerment of excluded groups

7. Specific barriers to women's access to finance must be eliminated. Women and girls must have equal access to financial services and the right to own land and other assets. Indigenous peoples' rights should be fully reflected in line with the United Nations Declaration on the Rights of Indigenous Peoples. In particular, their rights to their lands, natural resources and territories, and to the benefits from their traditional knowledge should be protected. Actions likely to impact their rights should not be taken without their free, prior and informed consent. Indigenous peoples have the right to participate in decision-making related to and to benefit from the use of their knowledge, innovations and practices. The human rights of migrants should be protected, regardless of their status. Discriminatory barriers to their development should be removed. Migrants should not be treated as an economic commodity. Policies on remittances should take into account that remittances are private sources of finance and seek to reduce their costs.

To respect human rights and do no harm

8. As businesses assume an ever-expanding role in the development and economic spheres their adherence to the human rights responsibilities outlined in the Guiding Principles on Business and Human Rights becomes increasingly critical. Businesses must respect human rights and do no harm. These responsibilities apply in the context of public private partnerships, blended finance instruments, foreign direct investment and all private business activities. With regard to public-private partnerships and blended finance, the risks and benefits of investments should be shared equitably between public and private investors. Both private and public sector partners must meet their respective human rights responsibilities and obligations. In working together, States and businesses should incorporate social, environmental, labour, human rights and gender equality considerations into their activities and subject public private partnerships to human rights safeguards and rigorous due diligence, including human rights impact assessments.

To protect persons from human rights abuses committed by private actors

9. States have an obligation to actively prevent private activities, including investments, from undermining human rights. States should establish appropriate regulations and oversight mechanisms to protect human rights from the potentially negative impacts of public-private partnerships and blended finance instruments. Measures should be taken to ensure that the provisions of international trade and investment agreements do not protect investor interests at the expense of State policy space to promote the realization of human rights.

To ensure accountability

10. All States should adopt policies and institutional, legal and regulatory frameworks to encourage responsible and accountable investment in sustainable development. Such frameworks should include human rights and sustainability criteria and align investor incentives with sustainable development. They should go beyond voluntary reporting and require all companies to undertake mandatory economic, environment, social and

governance reporting commensurate with the level of risk posed by their activities. This will help to identify, prevent and mitigate any risk of adverse human rights impacts.

To guarantee all persons enjoy the rights to food and health as well as the benefits of science and its applications

11. States must take steps to ensure that global intellectual property regimes do not obstruct the realization of the right to food, hinder access to medicines, or impede the benefits of development from reaching the poor and marginalized, including through application of the trade-related aspects of intellectual property rights flexibilities, while at the same time ensuring that intellectual property regimes create appropriate incentives to help meet sustainable development objectives. Environmentally clean and sound technologies should be accessibly priced and broadly disseminated. The cost of their development should be equitably shared, and their benefits should be equitably distributed between and within countries.

To ensure sovereign debt arrangements do not undercut the realization of human rights

12. States have committed to cooperate to mobilize maximum available resources for the progressive realization of human rights. Unsustainable debt burdens should not be permitted to threaten State efforts to fulfil their human rights obligations. All States would benefit from a permanent, fair and effective sovereign debt workout mechanism. All States, international financial institutions, relevant United Nations agencies, funds and programmes and the private sector, should cooperate to avoid sovereign debt crises by agreeing to guidelines that ensure sustainable, transparent lending and borrowing that benefits and is accountable to people, taking into consideration the guiding principles on foreign debt and human rights endorsed by the Human Rights Council.

To address climate harms to human rights

13. Climate change affects people everywhere. Yet, the poorest and most marginalized individuals, communities and countries that have contributed the least to greenhouse emissions often bear the greatest burden. Efforts to mitigate and adapt to the impacts of climate change should therefore meet the special needs and circumstances of developing countries and of vulnerable and marginalized persons everywhere. For example, harmful fossil fuel and agricultural subsidies, both direct and indirect, should be phased out with safeguards that minimize the impact on the poorest and most vulnerable. Conversely, carbon taxes, with appropriate safeguards to minimize impacts on the poorest and most vulnerable, could be designed to internalize environmental externalities and finance sustainable development efforts.

To align economic policies and institutions with human rights standards

14. A road map should be put in place for economic governance reforms that ensure fair representation of emerging and developing countries in international financial and economic decision making, prevent future economic crises and promote sustainable, inclusive economic progress. Policy coherence, particularly human rights policy coherence, will be critical for the successful implementation of the 2030 Agenda. This will entail taking measures to ensure coherence between current international legal regimes for trade, finance, and investment on the one hand and norms and standards for labour, the environment, human rights, equality and sustainability on the other hand.

To monitor human rights progress

15. A people-centred and planet-sensitive post-2015 human rights and development agenda must adopt a broader measure of progress than the gross domestic product. It must take into account the three dimensions of sustainable development and be rooted in a human rights-based approach to development. The objective should be to capture the degree to which the strength of an economy meets the needs and rights of people, and how sustainably and equitably it does so. By monitoring progress toward fulfilment of human rights objectives, States can make informed decisions regarding the effective use of resources for the progressive realization of human rights.

To ensure accountability of all duty bearers to rights holders

16. States should regularly review and monitor the global partnership for sustainable development based on specific, measureable, time-bound targets to ensure the accountability of all States for their commitments. The review of the global partnership for sustainable development should draw upon and feed into existing monitoring mechanisms, including by integrating in a structured manner the work of relevant human rights bodies. The monitoring of financing for development needs to go beyond the tracking of financial flows and also assess the development results of such financial flows as well as progress on addressing systemic issues. Monitoring efforts must be underpinned by a human rights-based data revolution that makes information more available, accessible and more broadly disaggregated to track development impacts for all people in all countries.

Annex II

Key messages on human rights and climate change of the Office of the United Nations High Commissioner for Human Right

1. In order to foster policy coherence and help ensure that climate change mitigation and adaptation efforts are adequate, sufficiently ambitious, non-discriminatory and otherwise compliant with human rights obligations, the following considerations should be reflected in all climate action.

To mitigate climate change and to prevent its negative human rights impacts

2. States have an obligation to respect, protect, fulfil and promote all human rights for all persons without discrimination. Failure to take affirmative measures to prevent human rights harms caused by climate change, including foreseeable long-term harms, breaches this obligation. The fifth assessment report of the Intergovernmental Panel on Climate Change confirms that climate change is caused by anthropogenic emissions of greenhouse gases. Among other impacts, climate change negatively affects people's rights to health, housing, water and food. These negative impacts will increase exponentially according to the degree of climate change that ultimately takes place and will disproportionately affect individuals, groups and peoples in vulnerable situations including, women, children, older persons, indigenous peoples, minorities, migrants, rural workers, persons with disabilities and the poor. Therefore, States must act to limit anthropogenic emissions of greenhouse gases (e.g. mitigate climate change), including through regulatory measures, in order to prevent to the greatest extent possible the current and future negative human rights impacts of climate change.

To ensure that all persons have the necessary capacity to adapt to climate change

3. States must ensure that appropriate adaptation measures are taken to protect and fulfil the rights of all persons, particularly those most endangered by the negative impacts of climate change such as those living in vulnerable areas (e.g. small islands, riparian and low-lying coastal zones, arid regions and the poles). States must build adaptive capacities in vulnerable communities, including by recognizing the manner in which factors such as discrimination, and disparities in education and health affect climate vulnerability, and by devoting adequate resources to the realization of the economic, social and cultural rights of all persons, particularly those facing the greatest risks.

To ensure accountability and effective remedy for human rights harms caused by climate change

4. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other human rights instruments require States to guarantee effective remedies for human rights violations. Climate change and its impacts, including sea-level rise, extreme weather events and droughts have already inflicted human rights harms on millions of people. For States and communities on the frontline, survival itself is at stake. Those affected, now and in the future, must have access to meaningful remedies, including judicial and other redress mechanisms. The obligations of States in the context of climate change and other environmental harms extend to all rights holders and to harm that occurs both inside and beyond boundaries. States should be accountable to rights holders for their contributions to climate change, including for failure to adequately regulate the emissions of businesses under their jurisdiction, regardless of where such emissions or their harms actually occur.

To mobilize maximum available resources for sustainable, human rights-based development

5. Under core human rights treaties, States acting individually and collectively are obligated to mobilize and allocate the maximum available resources for the progressive realization of economic, social and cultural rights, as well as for the advancement of civil and political rights and the right to development. The failure to adopt reasonable measures to mobilize available resources to prevent foreseeable human rights harms caused by climate change breaches this obligation. The mobilization of resources to address climate change should complement and not compromise other efforts of Governments to pursue the full realization of all human rights for all, including the right to development. Innovative measures such as carbon taxes, with appropriate safeguards to minimize negative impacts on the poor, can be designed to internalize environmental externalities and mobilize additional resources to finance mitigation and adaptation efforts that benefit the poorest and most marginalized.

International cooperation

6. The Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and other human rights instruments impose upon States the duty to cooperate to ensure the realization of all human rights. Climate change is a human rights threat with causes and consequences that cross borders; thus, it requires a global response, underpinned by international solidarity. States should share resources, knowledge and technology in order to address climate change. International assistance for climate change mitigation and adaptation should be additional to existing official development assistance commitments. Pursuant to relevant human rights principles, climate assistance should be adequate, effective and transparent, it should be administered through participatory, accountable and non-discriminatory processes, and it should be targeted toward persons, groups, and peoples most in need. States should engage in cooperative efforts to respond to climate-related displacement and migration and to address climate-related conflicts and security risks.

To ensure equity in climate action

7. The Rio Declaration on Environment and Development, the Vienna Declaration and Programme of Action and The Future We Want all call for the right to development, which is articulated in the Declaration on the Right to Development, to be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations. The United Nations Framework Convention on Climate Change calls for States to protect future generations and to take action on climate change "on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities". While climate change affects people everywhere, those who have contributed the least to greenhouse gas emissions (i.e. the poor, children and future generations) are those most affected. Equity in climate action requires that efforts to mitigate and adapt to the impacts of climate change should benefit people in developing countries, indigenous peoples, people in vulnerable situations and future generations.

To guarantee that everyone enjoys the benefits of science and its applications

8. The International Covenant on Economic, Social and Cultural Rights states that everyone has the right to enjoy the benefits of science and its applications. All States should actively support the development and dissemination of new climate mitigation and adaptation technologies including technologies for sustainable production and consumption. Environmentally clean and sound technologies should be accessibly priced, the cost of their development should be equitably shared, and their benefits should be fairly distributed between and within countries. Technology transfers between States should take place as needed and appropriate to ensure a just, comprehensive and effective international response

to climate change. States should also take steps to ensure that global intellectual property regimes do not obstruct the dissemination of mitigation and adaptation technologies while at the same time ensuring that these regimes create appropriate incentives to help meet sustainable development objectives. The right of indigenous peoples to participate in decision-making related to and benefit from the use of their knowledge, innovations and practices should be protected.

To protect human rights from business harms

9. The Guiding Principles on Business and Human Rights affirm that States have an obligation to protect human rights from harm by businesses, while businesses have a responsibility to respect human rights and to do no harm. States must take adequate measures to protect all persons from human rights harms caused by businesses; to ensure that their own activities, including activities conducted in partnership with the private sector, respect and protect human rights; and where such harms do occur to ensure effective remedies. Businesses are also duty bearers. They must be accountable for their climate impacts and participate responsibly in climate change mitigation and adaptation efforts with full respect for human rights. Where States incorporate private financing or market-based approaches to climate change within the international climate change framework, the compliance of businesses with these responsibilities is especially critical.

To guarantee equality and non-discrimination

10. States have committed to guarantee equality and non-discrimination. Efforts to address climate change should not exacerbate inequalities within or between States. For example, indigenous peoples' rights should be fully reflected in line with the United Nations Declaration on the Rights of Indigenous Peoples and actions likely to impact their rights should not be taken without their free, prior and informed consent. Care should also be taken to ensure that a gender perspective, including efforts to ensure gender equality, is included in all planning for climate change mitigation and adaptation. The rights of children, older persons, minorities, migrants and others in vulnerable situations must be effectively protected.

To ensure meaningful and informed participation

11. The International Covenant on Civil and Political Rights and other human rights instruments guarantee all persons the right to free, active, meaningful and informed participation in public affairs. This is critical for effective rights-based climate action and requires open and participatory institutions and processes, as well as accurate and transparent measurements of greenhouse gas emissions, climate change and its impacts. States should make early-warning information regarding climate effects and natural disasters available to all sectors of society. Adaptation and mitigation plans should be publicly available, transparently financed and developed in consultation with affected groups. Particular care should be taken to comply with relevant human rights obligations related to participation of persons, groups and peoples in vulnerable situations in decision-making processes and to ensure that adaptation and mitigation efforts do not have adverse effects on those that they should be protecting. Human rights impact assessments of climate actions should be employed to ensure that they respect human rights. Further, States should develop and monitor relevant human rights indicators in the context of climate change, keeping disaggregated data to track the varied impacts of climate change across demographic groups and enabling effective, targeted and human rights compliant climate action.